

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 BLAINE A. NOBLETT (State Bar No. 235612)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-1396
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) ESCROW LICENSE NO.: 963-0348
12)
13 THE COMMISSIONER OF BUSINESS) ACCUSATION
OVERSIGHT,)
14)
15 Complainant,)
16)
17 v.)
18)
HACIENDA ESCROW CORPORATION and)
19 RONALD BRYAN FORNO, as an individual,)
20 Respondents.)
_____)

21 Jan Lynn Owen, the Commissioner of Business Oversight (Commissioner), is informed and
22 believes, and based upon such information and belief, alleges and charges Respondents Hacienda
23 Escrow Corporation (Hacienda) and Ronald Bryan Forno (Forno) as follows:

24 I.

25 **Jurisdiction and Venue**

26 1. The Commissioner is authorized to administer and enforce the provisions of the
27 California Escrow Law (Escrow Law) (Fin. Code, § 17000 et seq.) and the rules issued under title 10
28

1 of the California Code of Regulations (CCR) that regulate the business and activities of independent
2 escrow agents.

3 2. The Commissioner brings this action under the provisions of Financial Code sections
4 17423 and 17608, and the rules and regulations promulgated thereunder.

5 **II.**

6 **Statement of Facts**

7 3. Hacienda is an independent escrow agent licensed by the Commissioner under the
8 Escrow Law. Hacienda has its principal place of business located at 1131 West 6th Street, Suite 270,
9 Ontario, California.

10 4. Forno is Hacienda's owner and president.

11 5. The Commissioner commenced a regulatory examination of Hacienda's business on or
12 about August 2, 2017.

13 6. The examination disclosed Hacienda and Forno violated the Escrow Law as follows:

14 (a) On or about April 5, 2017, Forno caused an unauthorized disbursement of trust
15 funds in the amount of \$10,000.00 in violation of Financial Code section 17414, subdivision (a)(1)
16 and CCR sections 1738 and 1738.2. Forno wired \$10,000.00 from Hacienda's trust account ending in
17 9029 to his personal bank account. The wire detail report indicates the transaction was labeled a
18 "bonus." That same day, April 5, Forno withdrew the \$10,000.00 in trust funds from his personal
19 bank account.

20 (b) The unauthorized disbursement of trust funds described above in paragraph
21 6.(a) caused a \$10,000.00 shortage to exist in Hacienda's trust account from April 5, 2017 until at
22 least July 23, 2018, when Hacienda replaced the \$10,000.00 by transferring funds from its general
23 account to its trust account ending in 9029, in violation of CCR 1738.1.

24 **III.**

25 **Applicable Statutes**

26 7. Financial Code section 17400, provides:

27 The commissioner may from time to time make, amend, and rescind the
28 rules, forms, and orders that are necessary to carry out the provisions of
this division, and define any terms, whether or not used in this division,

1 insofar as the definitions are not inconsistent with the provisions of this
2 division. For the purpose of rules and forms, the commissioner may,
3 among other things, classify persons and matters within the
4 commissioner's jurisdiction and may prescribe different requirements
5 for different classes. The commissioner may, in the commissioner's
6 discretion, waive any requirement of any rule or form in situations
7 where in his or her opinion the requirement is not necessary in the
8 public interest or for the protection of the public.

6 8. Financial Code section 17414, provides:

7 (a) It is a violation for any person subject to this division or any
8 director, stockholder, trustee, officer, agent, or employee of any such
9 person to do any of the following:

10 (1) Knowingly or recklessly disburse or cause the disbursement of escrow
11 funds otherwise than in accordance with escrow instructions, or
12 knowingly or recklessly to direct, participate in, or aid or abet in a
13 material way, any activity which constitutes theft or fraud in connection
14 with any escrow transaction.

15 (2) Knowingly or recklessly make or cause to be made any
16 misstatement or omission to state a material fact, orally or in writing, in
17 escrow books, accounts, files, reports, exhibits, statements, or any other
18 document pertaining to an escrow or escrow affairs.

19 (b) Any director, officer, stockholder, trustee, employee, or agent of an
20 escrow agent, who abstracts or willfully misappropriates money, funds,
21 trust obligations or property deposited with an escrow agent, is guilty
22 of a felony. Upon conviction, of an offense under this section or similar
23 offenses specified in Chapter 4 (commencing with Section 470),
24 Chapter 5 (commencing with Section 484), or Chapter 6 (commencing
25 with Section 503) of Title 13 of Part 1 of the Penal Code, the court
26 shall, in addition to any other punishment imposed, order the person to
27 make full restitution, first to the escrow agent and then to Fidelity
28 Corporation, to the extent it has indemnified the escrow agent. Nothing
in this section shall be deemed or construed to repeal, amend, or impair
any existing provision of law prescribing a punishment for such an
offense.

(c) Any person subject to this division who knows of a person's
involvement in an abstraction or misappropriation of money, funds,
trust obligations, or property deposited with a licensed escrow agent
shall immediately report the abstraction or misappropriation in writing
to the commissioner and to Fidelity Corporation. No person shall be
civilly liable for reporting as required under this subdivision, unless the

1 information provided in the report is false and the person providing
2 false information does so with knowledge and malice. The reports filed
3 under this section, including the identity of the person making the
filing, shall remain confidential pursuant to state law.

4 9. Financial Code section 17423, provides:

5 (a) The commissioner may, after appropriate notice and opportunity for
6 hearing, by order, censure or suspend for a period not exceeding 12
7 months, or bar from any position of employment, management, or
8 control any escrow agent, or any other person, if the commissioner
9 finds either of the following:

10 (1) That the censure, suspension, or bar is in the public interest and that
11 the person has committed or caused a violation of this division or rule
12 or order of the commissioner, which violation was either known or
13 should have been known by the person committing or causing it or has
14 caused material damage to the escrow agent or to the public.

15 (2) That the person has been convicted of or pleaded nolo contendere to
16 any crime, or has been held liable in any civil action by final judgment,
17 or any administrative judgment by any public agency, if that crime or
18 civil or administrative judgment involved any offense specified in
19 subdivision (b) of Section 17414.1, or any other offense reasonably
20 related to the qualifications, functions, or duties of a person engaged in
21 the business in accordance with the provisions of this division.

22 (b) Within 15 days from the date of a notice of intention to issue an
23 order pursuant to subdivision (a), the person may request a hearing
24 under the Administrative Procedure Act (Chapter 5 (commencing with
25 Section 11500) of Division 3 of Title 2 of the Government Code).
26 Upon receipt of a request, the matter shall be set for hearing to
27 commence within 30 days after such receipt unless the person subject
28 to this division consents to a later date. If no hearing is requested within
15 days after the mailing or service of such notice and none is ordered
by the commissioner, the failure to request a hearing shall constitute a
waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to
this section, the person who is the subject of the proposed order is
immediately prohibited from engaging in any escrow processing
activities, including disbursing any trust funds in the escrow agent's
possession, custody or control, and the financial institution holding
trust fluids shall be so notified by service of the notice, accusation and
other administrative pleadings. The prohibition against disbursement of
trust funds may be set aside, in whole or in part, by the commissioner
for good cause.

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(d) Fidelity Corporation shall disclose to all licensees the identity of persons who have been censured, suspended, or barred from any position of employment, management, or control.

(e) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed escrow agent and from engaging in any business activity on the premises where a licensed escrow agent is conducting escrow business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal escrow transactions processed by a licensed escrow agent.

(f) This section shall apply to any violation, conviction, plea, or judgment occurring at any time prior to and after the enactment of this section.

(g) The provisions of Section 17414.1 exempting convictions for which a person has obtained a certificate of rehabilitation from the prohibition against serving as an officer, director, stockholder, trustee, agent, or employee of an escrow agent, or in any position involving any duties with an escrow agent, shall not apply to permit the reinstatement of any person barred by the commissioner pursuant to this section, nor to prohibit the commissioner from bringing any action pursuant to this section.

(h) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

10. Financial Code section 17608, provides in pertinent part:

The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if he finds that:

(b) The licensee has violated any provision of this division or any rule made by the commissioner under and within the authority of this division.

1 (c) Any fact or condition exists which, if it had existed at the time of
2 the original application for such license, reasonably would have
3 warranted the commissioner in refusing originally to issue such license.

4 11. 10 CCR 1738, provides:

5 (a) All money deposited in such "trust" or "escrow" account shall be
6 withdrawn, paid out, or transferred to other accounts only in
7 accordance with the written escrow instructions of the principals to the
8 escrow transaction or the escrow instructions transmitted electronically
9 over the Internet executed by the principals to the escrow transaction or
10 pursuant to order of a court of competent jurisdiction.

11 (b) The escrow agent shall comply with, at a minimum, the following
12 procedures for wire transfers (also known as "electronic fund
13 transfers"):

14 (1) The instructions of the principals authorizing the wire transfer must
15 contain, at a minimum, the amount of the funds to be wire transferred,
16 the name of the financial institution, the account number and the
17 account name, receiving the funds.

18 (2) The escrow agent shall retain confirmation of the wire transfer
19 from the financial institution that contains, at a minimum, the amount
20 of the funds wire transferred and the account number and name of the
21 account the funds were wire transferred to.

22 (3) If necessary, the escrow books shall be properly adjusted to reflect
23 the wire transfer of funds from the escrow account.

24 (4) The escrow agent shall maintain a proper audit trail and adequate
25 controls and safeguards for funds disbursed by wire transfer.

26 12. 10 CCR 1738.1, provides:

27 An escrow agent shall not withdraw, pay out, or transfer monies from
28 any particular escrow account in excess of the amount to the credit of
such account at the time of such withdrawal, payment, or transfer.

13. 10 CCR 1738.2, provides:

An escrow agent shall use documents or other property deposited in
escrow only in accordance with the written escrow instructions of the
principals to the escrow transaction or the escrow instructions
transmitted electronically over the Internet executed by the principals to
the escrow transaction, or if not otherwise directed by written or
electronically executed instructions, in accordance with sound escrow

1 practice, or pursuant to order of a court of competent jurisdiction.

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3 **IV.**

4 **Prayer**

5 The Commissioner finds that, by reason of the foregoing, Hacienda violated Financial Code
6 sections 17400, 17414, subdivision (a)(1), CCR sections 1738, 1738.1, and 1738.2, and grounds exist
7 to revoke its escrow agents license. The Commissioner further finds that Forno violated Financial
8 Code section 17414, subdivision (a)(1), and grounds exist to bar Forno from any position of
9 employment, management, or control of any escrow agent.

10 WHEREFORE, IT IS PRAYED that:

11 Under Financial Code section 17608, the escrow agents license of Hacienda be revoked.

12 Under Financial Code section 17423, Forno be barred from any position of employment,
13 management, or control of any escrow agent.

14 Dated: January 7, 2019

15 Los Angeles, California

JAN LYNN OWEN

Commissioner of Business Oversight

16
17 By _____

18 Blaine A. Noblett

19 Senior Counsel

20 Enforcement Division